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| 09/645,292 | 08/24/2000 | Linda M Smith | 254070-2 | 3365 |

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YOUNG, JOHN L

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 3622 | |

DATE MAILED: 02/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

| | |
|-------------------------------|------------------------------|
| Application No. 09/645,292 | Applicant(s) Smith et al. |
| Examiner John Young | Art Unit 3622 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on Aug 24, 2000.
- 2a) This action is FINAL. 2b) This action is non-final.

- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-32 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some* c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) Other: _____

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DRAWINGS

1. This application has been filed with drawings that are acceptable for examination and publication purposes. The review process for drawings that are included with applications on filing has been modified in view of the new requirement to publish applications at eighteen months after the filing date of applications, or any priority date claimed under 35 U.S.C. §§119, 120, 121, or 365.

CLAIM REJECTIONS — 35 U.S.C. §103(a)

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-32 are rejected under 35 U.S.C. §103(a) as being unpatentable over Shaw

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6,199,106 (03/06/2001) [US f/d: 9/14/1998] (herein referred to as "Shaw").

As per claim 1, Shaw (the ABSTRACT; FIG. 1; FIG. 3; FIG. 4; FIG. 6; FIG. 7; FIG. 9; FIG. 11; col. 1, ll. 21-27; col. 2, ll. 38-55; col. 3, ll. 5-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-11; and col. 18, ll. 50-60; and whole document) shows elements that suggest: "A computer-implemented method for targeting marketing content to an online user, each content having an associated target profile, comprising the steps of: collecting data describing the user in a user profile, the data including a photographic likeness of the user; comparing the user profile, including information derived from the user's photographic likeness, to the target profile associated with each content; and presenting the user with content based on the comparison."

Shaw lacks an explicit recitation of "including a photographic likeness of the user; comparing the user profile, including information derived from the user's photographic likeness. . ." even though Shaw (col. 1, ll. 21-27; col. 2, ll. 38-55; and col. 18, ll. 50-60) suggests same.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art that the disclosure of Shaw (col. 1, ll. 21-27; col. 2, ll. 38-55; and col. 18, ll. 50-60) would have been selected in accordance with "including a photographic likeness of the user; comparing the user profile, including information derived from the user's photographic likeness. . ." because such selection would have provided means which "*Allows users to view advertisements while receiving, composing, and managing personal electronic communications.*" (see Shaw (col. 2, ll. 5-10)).

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As per dependent claims 2-14, Shaw shows the method of claim 1 and subsequent base claims depending from claim 1.

Shaw lacks explicit recitation of the elements and limitations of claims 2-14, even though Shaw (the ABSTRACT; FIG. 1; FIG. 3; FIG. 4; FIG. 6; FIG. 7; FIG. 9; FIG. 11; col. 1, ll. 21-27; col. 2, ll. 38-55; col. 3, ll. 5-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-11; and col. 18, ll. 50-60; and whole document suggests same.

Official Notice is taken that both the concepts and the advantages of the elements and limitations of claims 2-14 were well known and expected in the art at the time of the invention. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include the elements and limitations of claims 2-14, because such selection would have provided means which "*Allows users to view advertisements while receiving, composing, and managing personal electronic communications.*" (see Shaw (col. 2, ll. 5-10)).

Independent claim 15 is rejected for substantially the same reasons as independent claim 1.

As per dependent claims 16-20, Shaw shows the system of claim 15 and subsequent base claims depending from claim 15.

Shaw lacks explicit recitation of the elements and limitations of claims 16-20,

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even though Shaw (the ABSTRACT; FIG. 1; FIG. 3; FIG. 4; FIG. 6; FIG. 7; FIG. 9; FIG. 11; col. 1, ll. 21-27; col. 2, ll. 38-55; col. 3, ll. 5-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-11; and col. 18, ll. 50-60; and whole document suggests same.

Official Notice is taken that both the concepts and the advantages of the elements and limitations of claims 16-20 were well known and expected in the art at the time of the invention. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include the elements and limitations of claims 16-20, because such selection would have provided means which "*Allows users to view advertisements while receiving, composing, and managing personal electronic communications.*" (see Shaw (col. 2, ll. 5-10)).

As per claim 21, Shaw (the ABSTRACT; FIG. 1; FIG. 3; FIG. 4; FIG. 5; FIG. 6; FIG. 7; FIG. 9; FIG. 10; FIG. 11; col. 1, ll. 21-27; col. 2, ll. 38-55; col. 3, ll. 5-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-11; col. 9, ll. 60-67; col. 10, ll. 1-67; col. 11, ll. 1-67; col. 18, ll. 50-60; col. 21, ll. 5-67; and col. 22, ll. 1-67; and whole document) shows elements that suggest: "A method for targeting marketing content to a user having an associated user profile, each targeted content having an associated target profile defined by market segmentation variables, comprising the steps of: assigning metrics to data elements in the user profile, each metric representing either an incremental or decremental change in a market segmentation variable, and including a

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confidence factor that decays over time; calculating a user index by applying the assigned metrics to the market segmentation variables; comparing the user index to the target profile associated with each content; and presenting the user with content based on the step of comparing.”

Shaw lacks an explicit recitation of “an index. . . .” even though Shaw (col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-11; col. 9, ll. 60-67; col. 10, ll. 1-67; col. 11, ll. 1-67; col. 18, ll. 50-60; col. 21, ll. 5-67; and col. 22, ll. 1-67) suggests same.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art that the “*directory*” disclosure of Shaw (col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-11; col. 9, ll. 60-67; col. 10, ll. 1-67; col. 11, ll. 1-67; col. 18, ll. 50-60; col. 21, ll. 5-67; and col. 22, ll. 1-67) would have been selected in accordance with “an index. . . .” because such selection would have provided means which “*Allows users to view advertisements while receiving, composing, and managing personal electronic communications.*” (see Shaw (col. 2, ll. 5-10)).

As per dependent claims 22-26, Shaw shows the method of claim 21 and subsequent base claims depending from claim 21.

Shaw lacks explicit recitation of the elements and limitations of claims 22-26, even though Shaw (the ABSTRACT; FIG. 1; FIG. 3; FIG. 4; FIG. 6; FIG. 7; FIG. 9; FIG. 11; col. 1, ll. 21-27; col. 2, ll. 38-55; col. 3, ll. 5-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6,

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ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-11; col. 9, ll. 60-67; col. 10, ll. 1-67; col. 11, ll. 1-67; col. 18, ll. 50-60; col. 21, ll. 5-67; and col. 22, ll. 1-67; and whole document) suggests same.

Official Notice is taken that both the concepts and the advantages of the elements and limitations of claims 22-26 were well known and expected in the art at the time of the invention. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include the elements and limitations of claims 22-26, because such selection would have provided means which "*Allows users to view advertisements while receiving, composing, and managing personal electronic communications.*" (see Shaw (col. 2, ll. 5-10)).

As per claim 27, Shaw (the ABSTRACT; FIG. 1; FIG. 3; FIG. 4; FIG. 6; FIG. 7; FIG. 9; FIG. 11; col. 1, ll. 21-27; col. 2, ll. 38-55; col. 3, ll. 5-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-11; col. 9, ll. 60-67; col. 10, ll. 1-67; col. 11, ll. 1-67; col. 18, ll. 50-60; col. 21, ll. 5-67; and col. 22, ll. 1-67; and whole document) shows elements that suggest: "A method for targeting marketing content to an online user having an associated target profile including at least one market segmentation variable and each online user having an associated user profile including a plurality of data elements, comprising the steps of: collecting data describing the user in the user profile, the data including responses to context-sensitive questions; comparing the user profile, including

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information derived from the context-sensitive questions, to the target profile associated with each content ; and presenting the user with content based on the comparison.”

Shaw lacks an explicit recitation of “context-sensitive questions. . . .” even though Shaw (FIG. 7; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-11; col. 9, ll. 60-67; col. 10, ll. 1-67; col. 11, ll. 1-67; col. 18, ll. 50-60; col. 21, ll. 5-67; and col. 22, ll. 1-67) suggests same.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art that the disclosure of Shaw (FIG. 7; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-11; col. 9, ll. 60-67; col. 10, ll. 1-67; col. 11, ll. 1-67; col. 18, ll. 50-60; col. 21, ll. 5-67; and col. 22, ll. 1-67) would have been selected in accordance with “context-sensitive questions. . . .” because such selection would have provided means which “*Allows users to view advertisements while receiving, composing, and managing personal electronic communications.*” (see Shaw (col. 2, ll. 5-10)).

As per dependent claims 28-32, Shaw shows the method of claim 27 and subsequent base claims depending from claim 27.

Shaw lacks explicit recitation of the elements and limitations of claims 28-32, even though Shaw (the ABSTRACT; FIG. 1; FIG. 3; FIG. 4; FIG. 6; FIG. 7; FIG. 9; FIG. 11; col. 1, ll. 21-27; col. 2, ll. 38-55; col. 3, ll. 5-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-11; col. 9, ll. 60-67; col. 10, ll. 1-67; col. 11, ll. 1-67; col. 18, ll. 50-60; col. 21, ll. 5-67; and col. 22, ll. 1-67; and whole document) suggests

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same.

Official Notice is taken that both the concepts and the advantages of the elements and limitations of claims 28-32 were well known and expected in the art at the time of the invention. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include the elements and limitations of claims 28-32, because such selection would have provided means which "*Allows users to view advertisements while receiving, composing, and managing personal electronic communications.*" (see Shaw (col. 2, ll. 5-10)).

CONCLUSION

3. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Any response to this action may be sent via facsimile to either:

(703) 746-7239 or (703) 872-9314 (for formal communications EXPEDITED PROCEDURE) or
(703) 746-7239 (for formal communications marked AFTER-FINAL) or
(703) 746-7240 (for informal communications marked PROPOSED or DRAFT).

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Hand delivered responses may be brought to:

Seventh floor Receptionist
Crystal Park V
2451 Crystal Drive
Arlington, Virginia.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L. Young who may be reached via telephone at (703) 305-3801. The examiner can normally be reached Monday through Friday between 8:30 A.M. and 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, may be reached at (703) 305-8469.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.


John L. Young

(Partial Signatory Authority)

Patent Examiner

February 10, 2003